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WILMINGTON, DE 19898

In re Application of
LE et al.

Application No.: 09/762,833

PCT No.: PCT/US97/12540

Int. Filing Date: 03 July 1997

Priority Date: 10 July 1996

Attorney Docket No.: TW-5922-A

For: POLYMERIZATION WITH LIVING
CHARACTERISTICS

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: DECISION ON PETITION
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This is a decision on applicants' "PETITION UNDER 37 CFR 1.137(b)" filed 30 January 2001 in the above-captioned application. The petition fee under 37 CFR 1.17(m) has been charged to applicant's Deposit Account.

BACKGROUND

On 03 July 1997, applicants filed international application PCT/US97/12540 which claimed a priority date of 10 July 1996 and which designated the United States. A Demand was filed on 02 February 1998 with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 11 January 1999 (10 January 1999 was a Sunday).

On 30 January 2001, applicants filed a transmittal letter requesting entry into the national stage in the United States, which was accompanied by, *inter alia*: the basic national fee and a copy of the international application. Applicants also filed "Petition Under 37 CFR 1.137(b)" to revive the international application and an executed declaration and power of attorney.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was payment of the basic national fee.

As to Item (2), as noted above, the appropriate petition fee of \$1240.00 as required by 37 CFR 1.17(m) has been charged to applicant's deposit account no. 04-1928.

With regard to Item (3), the above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply ... from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional". See *Changes to Patent Practice and Procedure*, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the United States Patent and Trademark Office).

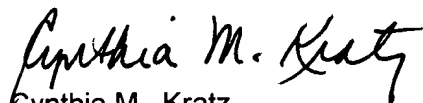
As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

Deposit Account No.04-1928 has been charged a \$130.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

CONCLUSION

All of the requirements of 37 CFR 1.137(b) have been met and applicant's petition to revive is GRANTED.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



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